



Appeal Decision

Site visit made on 3 September 2025

by **C Mayes CMLI**

an Inspector appointed by the Secretary of State

Decision date: 27 November 2025

Appeal Ref: APP/Z4718/W/25/3367582

57 Thorncliffe Road, Staincliffe, Batley, Kirklees WF17 7AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Rahana Daji against the decision of Kirklees Metropolitan Council.
 - The application Ref is 2025/62/90601/E.
 - The development proposed is demolition of existing attached garage to facilitate proposed new build detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the living conditions of the occupants of 1 Norfolk Avenue, with particular reference to outlook and sunlight; and
 - the effect of the proposed development on ecology.

Reasons

Living conditions

3. The proposal seeks to demolish the existing attached garage to the appeal property and erect a two-and-a-half storey detached dwelling immediately adjacent to the boundary with 1 Norfolk Avenue (No 1). No 1 is situated on a corner plot at a slightly lower level than the appeal site, and in very close proximity to the appeal site's eastern boundary.
4. No 1's side elevation, facing the appeal site, has two ground floor and two first floor windows. While the current garage and boundary fence already limit outlook from and sunlight to the ground floor, the proposed dwelling's much larger and taller blank gable at such close range would significantly reduce outlook from both floors, with a particularly pronounced effect at first floor level.
5. The front windows to the side elevation of No 1 would appear to be secondary windows to the rooms they serve, and the ground floor window to the rear serves a room likely too small to be considered as a habitable room. Hence, any loss of sunlight to these windows alone would not result in unacceptable living conditions. However, dual aspect rooms do not negate the harm caused by the loss of outlook from the affected windows.

6. Moreover, the use of the room served by the first floor window to the rear of the side elevation of No 1 is unclear. In the absence of verified internal layouts, it cannot be assumed that this window does not serve a habitable room. Given its position, it could reasonably serve as a bedroom, and the precautionary approach requires this possibility be considered.
7. The appellant has provided a Sun Path Assessment to demonstrate that the proposal would not cause significant overshadowing. However, this assessment lacks the level of detail necessary to make a full and accurate judgement. In the absence of a comprehensive overshadowing study and verified internal layouts, any suggestion that the impact of the proposed development would be negligible is unsubstantiated and contrary to the precautionary approach required by policy.
8. As such, the very limited separation between the properties, combined with the proposed dwelling's increased height and mass, would result in an unduly overbearing and enclosing effect, materially harming the living conditions of occupants of No 1 by significantly restricting outlook and reducing sunlight to a potentially habitable room.
9. Although the proposal would maintain the established building line and seeks to minimise the effects on No 1, these measures alone are not sufficient to prevent harm to neighbouring amenity. The primary consideration remains the impact on living conditions, particularly in terms of outlook and sunlight, which has been found to be materially harmful.
10. For these reasons, I conclude that the proposed development would have a harmful effect on the living conditions of occupants of No 1 with particular regard to outlook and sunlight. Therefore, the proposed scheme would be contrary to Policy LP24 of the Kirklees Local Plan, February 2019, (LP) which, among other things, requires development, through maintaining appropriate distances between buildings, to provide a high standard of amenity for neighbouring occupants.

Ecology

11. The appeal site is within a bat alert area, indicating a reasonable likelihood of protected species being present. While the age and use of the building to be demolished may reduce its suitability as a bat roost, this does not confirm the absence or otherwise of bats. No ecology survey or preliminary roost assessment has been provided, so it is unclear whether protected species, particularly bats, may be affected by the proposal.
12. The presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to that species or its habitat. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before any planning permission is granted to ensure all relevant material considerations are addressed.
13. Ecological surveys may only be secured by planning condition in exceptional circumstances where sufficient information is available to assess potential impacts. In this case, no such circumstances have been demonstrated, and the lack of ecological evidence, particularly regarding bats, creates unacceptable uncertainty. Without this, necessary mitigation measures cannot be ensured.
14. The Council's omission to raise the matter of ecology at pre-application stage does not remove the appellant's responsibility to provide adequate ecological information. The absence of such information creates unacceptable uncertainty and conflicts with local and national policy requirements.

15. Policy LP30 of the LP requires development to protect species of importance unless the benefits clearly outweigh ecological interest and appropriate compensation measures are secured. Hence, in the absence of surveys there cannot be any certainty as to whether the proposal would affect the ecology of the site, or if any mitigation would be necessary to specifically address harm. In this regard, the proposal therefore conflicts with Policy LP30 of the LP.

Planning Balance

16. The National Planning Policy Framework (the Framework) does not change the statutory status of the development plan as the starting point for decision making. The proposal is not in accordance with the aforementioned policies of the LP, with the associated conflict reflecting harm to the living conditions of neighbouring occupants and ecology. For this reason, the development conflicts with the development plan as a whole and should be refused unless other material considerations indicate otherwise.
17. The Council have confirmed that they do not currently meet the Housing Delivery Test and, in the evidence before me, can only demonstrate a 3.96-year supply of housing land. Consequently paragraph 11(d) of the Framework should be applied. Paragraph 11(d) explains that in these circumstances, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
18. The proposal would make a positive contribution to housing supply, with associated social and economic benefits during the construction period and once the dwelling was occupied. However, the scale of development proposed means the contribution of one additional dwelling to meet the housing need in the district would be very limited.
19. In the particular circumstances of this case, I have concluded that the proposed development would have a significant and detrimental effect on outlook and sunlight in regard to the neighbouring property and on ecology. As such, the conflict with policies in the LP should be given significant weight. Consequently, the adverse impacts significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

20. The proposal would conflict with the development plan, when considered as a whole, and there are no material considerations that indicate that a decision should be made other than in accordance with it. I therefore conclude that the appeal should be dismissed.

C Mayes

INSPECTOR